

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7305

BILL NUMBER: SB 492

NOTE PREPARED: Jan 28, 2011

BILL AMENDED:

SUBJECT: Medicaid Generic Drug Reimbursement Program.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State and Local

Summary of Legislation: This bill requires the Drug Utilization Review Board (DUR Board) to develop, implement, and maintain a generically equivalent drug product Medicaid reimbursement program.

The bill requires the manufacturer of a generically equivalent drug product to submit the cost that it would offer to a Medicaid provider for its drug in order to participate in the Medicaid program, and specifies that the cost may not exceed the maximum allowable rate determined by the Office of Medicaid Policy and Planning (OMPP).

The bill requires the DUR Board to review the submissions and determine a Medicaid reimbursement rate for the therapeutic drug classification. It also establishes a time line for the implementation of the program for certain therapeutic drug classifications.

The bill requires the OMPP to reimburse Medicaid providers at the rate determined by the DUR Board for the therapeutic drug classification.

Effective Date: July 1, 2011.

Summary of NET State Impact: The bill may provide for an indeterminate amount of Medicaid savings due to lower generic drug costs. However, in order to implement the program FSSA would require an unknown amount of funding to provide for a contractor and approximately \$118,000 annually in salary and fringe benefits to hire a pharmacist to implement and administer the program.

Explanation of State Expenditures: This bill establishes a new cost-setting mechanism for Medicaid reimbursement of generically equivalent prescription drugs. The bill requires the DUR Board to establish a procedure under which generic drug manufacturers are required to submit a cost for specified products that the manufacturer would offer to all Medicaid pharmacy providers in the state. The bill would require that the cost submitted by the manufacturers be less than the maximum allowable cost (MAC) as determined by the OMPP. The DUR Board is to determine the Medicaid reimbursement for the specified generic drug product, and all pharmacy providers will be reimbursed at the cost of the presumably lowest-cost proposal submitted by the generic drug manufacturers.

In essence, the bill requires the DUR to accept bids from generic drug manufacturers to determine the amount of the Medicaid reimbursement for the product. Because the bill establishes the MAC as the ceiling for any bids, OMPP would be required to keep the MAC process in place. Under price setting proposed by the bill, the difference between the amount of the MAC and the accepted manufacturer's bid cost would be the amount the state would accrue in savings. The level of savings to be achieved is indeterminate since the extent to which manufacturers would offer costs below the level of the MAC for a wide variety of generically equivalent products is unknown. The bill does not require pharmacy providers to dispense only the selected manufacturer's product; it simply uses the bid to establish the cost that Medicaid will reimburse.

Administration: The bill would require OMPP, as the agency that provides the staffing resources for the DUR Board, to design and implement a new bidding process with manufacturers that supply the Medicaid providers. OMPP does not have direct business relationships with the manufacturers of generically equivalent drugs, although the MAC contractor would have invoicing information submitted by pharmacy providers. OMPP would be required to contract with the selected generic drug manufacturers to guarantee that the bid price would be the price that Medicaid pharmacy providers could purchase the product. OMPP has reported this program would require a contracted vendor to implement the program and that the resources and staff required to implement, contract, and administer the ongoing program are not available. The amount of funding necessary to contract for a vendor to implement the program is not known. In addition to needing a contracted vendor, OMPP has reported that one full-time pharmacist would be necessary to provide oversight for the program. Salary and fringe benefits for a pharmacist position would be expected to require approximately \$118,000.

Background Information on Medicaid Drug Cost: Currently, Medicaid reimburses for prescription drugs by determining the lowest of the following: (1) estimated acquisition cost (EAC) of a drug plus any applicable Medicaid dispensing fee; (2) the state maximum allowable cost plus any applicable Medicaid dispensing fee; and (3) the provider's submitted usual and customary charge. The EAC for generic drugs is 80% of the average wholesale cost according to the contractor's database files. The state MAC is the average actual acquisition cost per drug adjusted by a multiplier of at least 1.0. The actual acquisition cost is determined by using pharmacy invoices submitted by pharmacies to the OMPP's contractor. The MAC rule specifies that the use of the multiplier is to ensure the MAC rate is sufficient to allow reasonable access to the drug at or below the established state MAC. Providers submit the cost information as a condition of participation in the Medicaid program.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 34% for most services. Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 66%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Federal ARRA enhanced Medicaid stimulus funding will be available to the state until June 30, 2011.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: FSSA, OMPP.

Local Agencies Affected:

Information Sources: FSSA, OMPP; and 405IAC 5-24-4.

Fiscal Analyst: Kathy Norris, 317-234-1360.